



**Official ISP98 Interpretation of
Rule 1.11(c)(i) (Interpretation of these Rules):**

ISP98 Interpretation No. 1.11:01 (February 2018)*

(The term “standby” also includes “confirmation” unless the context requires otherwise.)

Question: Does the term “standby”¹ also include “confirmation” when used in ISP98?

Text: ISP98 Rule 1.11(c)(i) (Interpretation of these Rules) states “Unless the context otherwise requires: i. **Issuer**” includes a **confirmer**” as if the confirmer were a separate issuer and its confirmation were a separate standby issued for the account of the issuer”.

Example: ISP98 Rule 2.06(a) (When an Amendment is Authorised and Binding) provides rules for a “standby” that expressly provides for automatic extension. Would the same rule apply to a confirmation of the standby that also provided for automatic extension?

Response: Yes. Unless the context of the Rule requires otherwise, references to “standby” in ISP98 include any confirmation issued with respect to the standby.

Explanation:

1. ISP98 Rule 1.11(c)(i) provides: “Unless the context otherwise requires: i. **Issuer**” includes a **confirmer**” as if the confirmer were a separate issuer and its confirmation were a separate standby issued for the account of the issuer”.
2. When drafting the ISP98 it was decided to avoid repeating the phrase “and any confirmer” every time the word “issuer” appears in order to achieve shorter and more concise Rules. Therefore, the word “issuer” in ISP98 includes a “confirmer” without stating the word, unless the context otherwise requires.
3. The same approach applies not only to “issuer” and “confirmer” which are in bold print in Rule 1.11(c)(i), but also to “confirmation” and “standby” which appear in the Rule text but not in bold print. The failure to bold the terms “confirmation” and “standby” in Rule 1.11(c)(i) is a printing error in the Official Version of ISP98 which should not alter the meaning of the text. It should read: “Unless the context otherwise requires: i. **Issuer**” includes a **confirmer**” as if the confirmer were a separate issuer and its **confirmation** were a separate **standby** issued for the account of the issuer”.

¹ Official Interpretations of ISP98. Under the protocols by which the International Standby Practices (ISP98) was issued by the Institute of International Banking Law & Practice (IIBLP) and endorsed by the International Chamber of Commerce and the United Nations Commission on International Trade Law, the Council on International Standby Practices was established to “provide for official interpretation of the rules, and to assure their proper evolution.” (Preface to ISP98). This Interpretation was issued by the Council on International Standby Practices and is an Official Interpretation of ISP98, and should be given deference in interpreting its provisions.

4. The qualification “unless the context otherwise requires” recognises that some ISP98 Rules distinguish issuers from confirmers of confirmed standbys (e.g., ISP98 Rules 2.01 and 8.01). In such cases, the term “standby” would not include “confirmation”.

¹ As provided in ISP98 Rule 1.11(b) (Interpretation of these Rules) the term “standby” as used in ISP98 includes any undertaking issued subject to ISP98 which would include independent guarantees. As noted in ISP98 Official Interpretation 1.01:01 (10 July 2017) (ISP98 serves as a model rule for independent guarantees), it is appropriate and not unusual for independent guarantees to be issued subject to ISP98. See, e.g., *TTI Team Telecom International Ltd. v Hutchison 3G UK Ltd.* [2003] EWHC 762 (TCC) [England], abstracted in *2004 Annual Survey of Letter of Credit Law & Practice* 335.

The citation to this interpretation is “ISP98 Interpretation No. 1.11:01 (February 2018) (the term “standby” also includes “confirmation” unless the context requires otherwise)”.

ISP98 and educational and training materials and programmes on standby letters of credit and independent guarantees, including *The Official Commentary on the International Standby Practices*, are available from IIBLP at www.iiblp.org.

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